

**MEMORANDUM**

**TO:** Board of Environmental Protection

**FROM:** Ron Severance, Bureau of Air Quality

**DATE:** May 15, 2008

**RE:** Adoption: Chapter 150 Control of Emissions from Outdoor Wood Boilers  
(amended pursuant to Resolve Chapter 190)

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**Statutory and Regulatory Reference:**

A. Statutory authority.

38 MRSA Section 585-A provides that the Board of Environmental Protection "may establish and amend regulations to implement ambient air quality standards and emission standards. These regulations shall be designed to achieve and maintain ambient air quality standards and emission standards within any region and prevent air pollution."

B. Specific legal mandates requiring adoption.

38 MRSA Section 610-B establishes particulate emission standards for outdoor wood boilers sold in Maine beginning April 1, 2008 and directs the Department to adopt rules that regulate the sale, installation, siting, operation, labeling and use of outdoor wood boilers, also known as outdoor wood-fired hydronic heaters.

Resolve Chapter 190, Regarding Legislative Review of Portions of Chapter 150: Control of Emissions from Outdoor Wood Boilers, a Major Substantive Rule of the Department of Environmental Protection, Bureau of Air Quality Control, (signed by the Governor 4/09/08 as emergency)

**Location/Applicability:**

The proposed regulation will apply statewide.

**Description:**

In June 2007, the Legislature enacted 38 MRSA Section 610-B, Outdoor wood boilers which established a Phase I particulate emission standard of 0.60 lbs/MMBTU effective April 1, 2008 and a Phase II particulate emission standard of 0.32 lbs/MMBTU effective April 1, 2010. The

legislature directed the Department to adopt a rule including the emission standards, setbacks and stack height requirements, operation and label requirements, dealer and manufacturer reporting, and definition of nuisance conditions specifically relating to the operation of outdoor wood boilers. Rules adopted pursuant to Section 610-B were adopted as emergency major substantive rules pursuant to Title 5, section 8073 and must be submitted to the Legislature for review by January 15, 2008.

On August 16, 2007, the Board of Environmental Protection held a public hearing on the Department's proposed Chapter 150, Control of Emissions from Outdoor Wood Boilers. The comment period remained open until August 31, 2007. The proposed Chapter 150 established requirements for the sale and installation of new outdoor wood boilers, including particulate emission standards, requirements for setback and stack height, analysis requirement for those commercial boilers, certification, sell-through of existing inventory, and labeling. The proposed rule also contained general provisions which apply to all outdoor wood boilers. These provisions included prohibited and allowed fuels, visible emissions standards, notice to buyers, and owner manual requirements. Additionally, pursuant to the new legislation, for the purpose of this rule the Department proposed a definition of "nuisance" and a method by which a nuisance condition can be identified. The BEP adopted Chapter 150 which became effective November 1, 2007.

In April 2008, the Maine Legislature enacted Resolve Chapter 190, Regarding Legislative Review of Portions of Chapter 150: Control of Emissions from Outdoor Wood Boilers, a Major Substantive Rule of the Department of Environmental Protection, Bureau of Air Quality Control. This legislation requires amendments to Chapter 150 in several areas:

**Sell-through exemption:** In order to be eligible for the sell-through exemption contained in the rule the outdoor wood boiler must have been purchased, paid for in full and in the State of Maine prior to April 1, 2008.

**Setbacks to neighbors:** The legislation authorizes the optional use of setbacks from neighboring dwellings for the installation of new outdoor wood boilers in addition to the setbacks to the nearest property line. Outdoor wood boilers with a particulate emission limit greater than 0.60 lbs/MMBtu heat input, those with a particulate emission limit of 0.60 lbs/MMBtu heat input and those with a particulate emission limit of 0.32 lbs/MMBtu heat output may be installed 270 ft, 120 ft and 70 ft, respectively, to the nearest dwelling that is not on the same property as the boiler.

**Setbacks to facilities:** Setbacks from state licensed school, daycare or healthcare facilities must conform to the general setback requirements. Therefore, the 500 foot setback requirement to these facilities has been deleted from the rule.

The Resolve became effective April 9, 2008, the day the Governor signed the enacted law (attached).

The Board must finally adopt Chapter 150 within 60 days of the date the Governor signed the enacted law. The final adoption package is then filed with the Secretary of State. The rule becomes effective 30 days after filing with the Secretary of State.

**Environmental Issues:**

In addition to fine particulates, wood combustion emissions contain sulfur oxides, nitrogen oxides, carbon monoxide and potentially cancer-causing compounds including formaldehyde, polycyclic aromatic hydrocarbons, benzene and dioxins. Fine particulates can aggravate lung diseases such as asthma, emphysema and bronchitis. Children, the elderly and those with respiratory problems are most at risk from exposure to wood smoke.

**Departmental Recommendation:**

The Department recommends that the Board adopt Chapter 150 Control of Emissions from Outdoor Wood Boilers as presented.

**Estimated Time of Presentation:**

15 minutes